

EXHIBIT 2

1 Q. Did you know Ms. Bembery before
2 February 6th, 2002?

3 A. No.

4 Q. Had you ever seen her before?

5 A. No.

6 Q. Can you tell me when was the first time
7 you saw her?

8 A. February 6th, 2002, at approximately,
9 what, 9:10.

10 Q. In the morning?

11 A. In the morning, a.m., yes.

12 Q. What was the weather like that day?

13 A. Very cold. I don't recall really much
14 other than that it was cold that day. I don't
15 recall snow or sleet or anything like that. It
16 might have been just a cloudy day.

17 Q. Do you know whether there was snow or
18 sleet or ice or snow cover on the ground?

19 A. Yes.

20 Q. Was there?

21 A. There was ice cover. Yes, sir.

22 Q. And what about the roadways?

23 A. I can't recall, sir.

24 Q. So you can't recall whether the roads

1 were clear of ice and snow or not?

2 A. I would tend to think they were, but I
3 can't absolutely say I'm positive.

4 Q. Can you tell us how you first came
5 across Ms. Bembery, Ms. Lockhart-Bembery, I'm
6 sorry?

7 A. Yes. It was on a radio call of a woman
8 in a vehicle on the side of the road slumped over
9 the wheel.

10 Q. Now, let me ask you a question. How
11 tall are you?

12 A. Five-six and a half.

13 Q. What do you weigh?

14 A. One hundred fifty.

15 Q. Do you consider yourself in good shape?

16 A. Not anymore.

17 Q. Were you the same size and height and
18 weight in February, 2002?

19 A. No. I was ten pounds lighter.

20 Q. And why is that?

21 A. I got married. My wife's a good cook.

22 Q. I have the good fortune --

23 A. Here's the ten pounds.

24 Q. I have the good fortune of suffering

1 from the same malady or the same blessing.

2 Do you consider that you were in good
3 shape in February, 2002?

4 A. I would say fair shape.

5 Q. Okay. But you were fit to be an active
6 duty police officer?

7 A. Yes, whatever that implies.

8 Q. How were you dressed on the morning of
9 February 6th?

10 A. In uniform.

11 Q. Were you wearing boots?

12 A. Boots, jacket, hat.

13 Q. And you received the radio call that a
14 woman was slumped over an automobile seat?

15 A. Over the wheel of an automobile, yes,
16 sir.

17 Q. What did you do in response?

18 A. I headed to the area.

19 Q. And where was the area?

20 A. Route 30 by Willowbrook, which is by
21 the old Dow Chemical, right off of Route 30, just
22 east of -- let me see, Oak Street, Oak and 30.

23 Q. And Willowbrook is a street or a brook?

24 A. No. It's a street. It goes into a

1 bunch of condos, condominiums.

2 Q. And can you describe Route 30 in that
3 area?

4 A. In that area it's pretty straight,
5 two-lane traffic.

6 Q. One lane each direction?

7 A. One lane each direction, correct, sir.

8 Q. There's a shoulder on the side of the
9 road?

10 A. Yes, sir. There's a small breakdown
11 shoulder, maybe a couple of feet on either side.

12 Q. By a couple of feet you're suggesting
13 that there's not enough room for --

14 A. No. A car couldn't completely pull
15 over and stay on the road and not have vehicles
16 have to go around it.

17 Q. Was there snow on the side of the road?

18 A. To the best of my recollection, there
19 might have been a small amount of snow, but what
20 really sticks in my recollection is the ice. It
21 was very icy. The grass I can remember had, like,
22 ice on it.

23 Q. And the grass would have been the
24 natural vegetation adjacent to the shoulder?

1 A. Correct. Just off the shoulder it's
2 all grass on either -- on both sides.

3 Q. And the roadways were clear of ice?

4 A. I can't say for sure. I can't say for
5 sure.

6 Q. I'm going to ask, could you sketch out
7 maybe down the middle of the paper --

8 A. Sure.

9 Q. Can you show us Route 30 and the two
10 lanes of travel, the shoulder and then where the
11 grass was?

12 A. Okay. To the best of my -- now, some
13 of this has changed. They've done a lot of
14 building and excavating and stuff over the years.

15 Q. I'm asking on the day of the incident.

16 A. Okay. To the best of my recollection,
17 to my terrible ability to write --

18 Q. I should warn you that I'm going to ask
19 you to put in Willowbrook Road or whatever it is.

20 A. Okay. If I put in Willowbrook, I can't
21 get to where the incident actually occurred, is
22 that okay, or do you want me to start back a bit?

23 Q. Why don't you start back a bit and take
24 another piece of paper if you need to?

1 A. Okay. There's quite a stretch of road
2 there, sir, quite a stretch of road. To make it
3 easy I'll start back here (indicating). Okay.
4 This would be Rice Road. This is not to scale,
5 okay? Can you make that out okay?

6 Q. That's good.

7 A. This would be Route 30 both ways.

8 Q. Can you show us the -- can you --

9 A. Make, like, a line down the middle.

10 Q. Right.

11 A. Well, there was lines down the middle.
12 It's a no-passing zone --

13 Q. Okay.

14 A. -- like this (indicating).

15 Q. Do you want to continue 30 down so if I
16 ask you to put in --

17 A. Where the incident occurred?

18 Q. Where you saw the car.

19 A. Sure, come up somewhat like this
20 (indicating) and then -- let me see. That starts
21 a curve. You go uphill like this, something like
22 this (indicating). I'm definitely not a sketch
23 artist here. Okay.

24 Q. What are you writing here?

1 A. Natick line.

2 Q. Okay.

3 A. Natick line is right about the end of
4 the straightaway.

5 Q. Why don't you put a dotted line to show
6 the --

7 A. Okay. That would be the Natick line
8 there (indicating).

9 Q. Can you show us the shoulder of the
10 road?

11 A. Let me see. The shoulder would be like
12 this (indicating). It's not very big.

13 Q. When you say it's not -- the shoulder
14 wasn't wide enough to contain a car without the
15 car being into the --

16 A. Into the travel lane.

17 Q. -- travel lane?

18 A. Correct, sir, yes, that's correct.
19 Okay.

20 Q. And what was beyond the shoulder in the
21 area where you saw -- where you saw the car in
22 response to this call?

23 A. Okay. On the shoulder was grass and a
24 driveway.

1 Q. Grass, the lawn to a person's home, or
2 grass, wild grass?

3 A. Well, kind of -- well, it's funny. I
4 don't know where -- what was personal property,
5 but there was a driveway right near the car and
6 after the driveway there was grass on both sides
7 and a hill, okay, kind of a hill going down. The
8 driveway was also on a hill. So I don't know what
9 they owned, you know.

10 Q. So the garage at the end of the
11 driveway was lower than the level of the street?

12 A. Yeah. Definitely there was a real
13 downgrade for the driveway and also a downgrade
14 for the grass, a definite downgrade.

15 Q. Can you show us the driveway?

16 A. Okay. Let me cut the -- okay. I think
17 it went like this (indicating). This is all grass
18 and there is a downgrade. Okay. I'd say that
19 would be similar to the driveway. It was the
20 first driveway into Natick. It's about the only
21 one in that area. It's just a little, bitty house
22 and it's been rebuilt as a matter of fact. They
23 destroyed it all. It's been, like, done over, I
24 think, twice actually.

1 Q. Okay.

2 A. So it's all the area that was once
3 there and set up is gone. It's completely
4 different.

5 Q. And the --

6 A. Do you want the vehicle as I first saw
7 it, sir? It would have been about --

8 MR. SILVERFINE: Why don't you wait
9 for his question.

10 Q. Show us the vehicle where you first saw
11 it and if you can draw it to show us where it was
12 in relation to the shoulder of the roadway and the
13 grass.

14 A. I'll do my best. Okay.

15 Q. So the car was halfway -- half of the
16 car was in the roadway and half of the car was on
17 the shoulder?

18 A. Well, I'll say probably three-quarters
19 of the car was in the roadway.

20 Q. Now, let me just go back and ask you.
21 You say there was a house there. Was this a
22 residential area or a more rural area?

23 MR. SILVERFINE: Objection as to
24 form. You can answer.

1 Q. Can you describe the female?

2 A. She was a black female, five-six,
3 stocky build.

4 Q. You observed this as you saw her
5 slumped sitting in the car?

6 A. No. This was -- she got out of the car
7 eventually. I'm giving you the description.

8 Q. Tell me what you observed as you
9 approached the car.

10 A. I just saw a black female sitting
11 behind the driver's seat.

12 Q. Was her head covered?

13 A. I don't recall.

14 Q. What else did you observe?

15 A. The engine of the vehicle wasn't
16 running.

17 Q. Was there anything else you observed?

18 A. Nothing out of the ordinary, just a
19 vehicle on the side of the road with a woman in it
20 and the engine is not running, but I didn't have
21 long to observe because as soon as I walked up to
22 the window which was down she said to me, oh, my
23 car's broken down. I've called AAA.

24 Q. Now, you say you walked up to the

1 vehicle?

2 A. I walked right up to the door.

3 Q. So you parked your cruiser?

4 A. Yes. I parked it quite a distance back
5 because of the hill and the curve to try to slow
6 people down so there wouldn't be a problem with me
7 standing in the road or walking down the road.

8 Q. Can you show us where you put your
9 police cruiser?

10 A. Let me see, probably way back here
11 (indicating).

12 Q. And you put a P in it for police?

13 A. Police, correct.

14 Q. And I see you put it in the lane of
15 travel, not in the shoulder?

16 A. Well, it would have been on the
17 shoulder. Well, actually, it was partially on the
18 shoulder as far as I could get over. I mean, as
19 you see, there's quite a bit of writing here, so
20 that's approximately where it was, but it was
21 further over. It was as far to the shoulder as I
22 could get but still in the roadway. So that way
23 the people coming down could see and the people
24 going up could see the vehicle.

1 See, this way, the people coming up the
2 straightaway had a line of sight of my lights, but
3 also the people coming down would have a line. If
4 I was further down, only people going further down
5 would see my lights. If I was further up, only
6 people coming down would see my lights. So I was
7 trying to think of safety.

8 Q. And this marking on the road was the --
9 this marking you said -- there were marks next to
10 where you put the car, your pen marks?

11 A. Oh, that was just grass. I recall that
12 was all grass right here (indicating) and that was
13 ice-covered grass. That I remember very
14 distinctly.

15 Q. And what about near the Cadillac?

16 A. It was grass up here (indicating),
17 too.

18 Q. Okay.

19 A. It was grass and it had, like, a little
20 curve, you know, going up.

21 Q. And the grass sloped down from the
22 roadway --

23 A. Yes, it did.

24 Q. -- downhill?

1 A. Yes, sir.

2 Q. So you got out of your vehicle and
3 walked to the Cadillac?

4 A. Mm-hmm.

5 Q. And the woman got out of the Cadillac?

6 A. Eventually, yes.

7 Q. And you observed her to be larger or
8 smaller than you?

9 A. I think about the same height, but I
10 believe she might be a little heavier than I was.

11 Q. And she told you that the car -- I'm
12 sorry. What did she tell you?

13 A. She told me that the car was broken
14 down and that she had called AAA to tow it.

15 Q. Okay. And what happened next?

16 A. I called into the station and just
17 let them know it was in Natick, the DMV was in
18 Natick; that I would stand by and direct traffic;
19 that the lady had called AAA.

20 Q. And did you receive any instructions?

21 A. No.

22 Q. And what did you do?

23 A. I received only a confirmation they
24 received my radio transmission.

1 like half-sitting on the seat with her arms in,
2 but her left leg, okay, I remember, did not get in
3 the car, okay? It must have been slippery.

4 Then the car just slowly went down the
5 embankment or shall I say down the grass, the
6 hill, and then stopped when it engaged, like, some
7 small trees, things like that, not a big tree. It
8 was just, like, bushes.

9 At this I ran down to her and I asked
10 her if she was all right away because I was an EMT
11 for 14 years. So I asked her if she was all
12 right. She says she's got a little bit of pain
13 in the chest, so I immediately called for our
14 ambulance, actually both ambulances, Natick and
15 Wayland's ambulances, and I asked her why she did
16 it. I said, I told you not to go after it and I
17 told you not to go after the car. She really --
18 on that she had no comment.

19 Q. Now, do you know what injuries she
20 suffered?

21 A. No, I don't.

22 Q. Do you know whether the injuries were
23 severe or not?

24 A. I called the -- I called later that

1 afternoon to the emergency room to see how she was
2 and I was told that she would be okay; that there
3 was no major injuries but they were going to keep
4 her overnight for observation.

5 Q. Do you know if she had any broken
6 bones?

7 A. They did not say because, you know,
8 they did not say anything about any broken bones
9 or extensive injuries.

10 Q. So you really don't know what the
11 extent of her injuries were?

12 A. No, sir.

13 Q. Do you know how long it took her to
14 recover?

15 A. No, sir.

16 Q. Can you tell us what happened to the
17 vehicle?

18 A. Just as the ambulances and everything
19 were getting there, up shows the AAA wrecker. So
20 I do believe the AAA wrecker ended up towing it.

21 Q. Do you know where the AAA wrecker took
22 the vehicle?

23 A. No, sir.

24 Q. You didn't -- you had no reason to take